IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION

CIVIL APPLICATION NO. 5284 OF 2007
IN
FIRST APPEAL ST.NO. 21880 OF 2007

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Office Notes, Office Memorandum of Coram, appearance, Court's orders or directions and Registrar's orders	Court's or Judge's orders

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Mr. P.M. Shah for the Appellant.
Mr. J.J. Xavier, for the Respondent.

CORAM : A.V. MOHTA, J.

DATE : 22ND OCTOBER,2007

P.C. :

. The Appellant's basic issue is that the notice in question is not pertaining to the premises in question. Secondly, the structure has been in existence since the year 1962. The finding given by the Commissioner after due enquiry at the initial stage refers that the structure is not in existence prior to 1964. There is no finding given specifically with reference to the existence of structure. As the Plaintiff - Appellant failed before this Court to file any document in support,

however, considering the scheme of B.M.C. Act and even otherwise, it is necessary for the Respondent - Corporation to take action immediately. There is no reference to the date of knowledge or information about the existing unauthorised construction. It is necessary even otherwise for them to take action immediately after knowledge of such unauthorised construction, if any.

2. The Municipal Corporation therefore, cannot issue notice specifically when the structures are very old in nature. Facet and procedure of regularization are available under the Bombay Municipal Corporation Act. Anyhow, at this stage of proceeding, the order passed by this Court dated 25th January 2007, whereby, this Court has directed to maintain status-quo with regard to the suit structure and possession thereof in Appeal No.8 of 2007 with Civil

Application No.61 of 2007. It is also an additional fact which is relevant to maintain status-quo with regard to suit structure and possession thereof.

3. The Civil Application is accordingly disposed of.

(A.V. MOHTA,J.)